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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,231	01/19/2006	Christian Dongar	0502-1037	3836

466 7590 08/16/2007  
YOUNG & THOMPSON  
745 SOUTH 23RD STREET  
2ND FLOOR  
ARLINGTON, VA 22202

EXAMINER
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WOODALL, NICHOLAS W

ART UNIT	PAPER NUMBER
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3733

MAIL DATE	DELIVERY MODE
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08/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/541,231	Applicant(s) DONGAR ET AL.	
	Examiner Nicholas Woodall	Art Unit 3733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to applicant's amendment received on 05/17/2007.

#### ***Information Disclosure Statement***

2. The information disclosure statement filed July 1<sup>st</sup>, 2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed.

#### ***Drawings***

3. The drawings were received on 05/17/2007. These drawings are not acceptable.
4. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are informal and difficult to comprehend. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kretschmer (European Patent 0,517,939 A1) in view of Young (U.S. Publication 2005/0038433).

Regarding claim 1, Kretschmer discloses a device comprising a locking sleeve. The locking sleeve includes an axial bore. Kretschmer fails to disclose the locking sleeve to include external threads. Young discloses a device comprising a locking sleeve that includes external threads in order to tighten the assembled device (page 1 paragraph 05). It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the device of Kretschmer with a locking sleeve including an external thread in view of Young in order to tighten the assembled device.

7. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kretschmer (European Patent 0,517,939 A1) in view of Young (U.S. Publication 2005/0038433) further in view of Sherman (U.S. Patent 5,141,357).

Regarding claim 1, the combination of Kretschmer and Young disclose the device as claimed except for the axis of the bore of the locking sleeve being angularly and/or laterally offset in relation to the axis of the external threads. Sherman discloses a device comprising a locking sleeve wherein the bore of the locking sleeve is laterally offset from the axis of the locking sleeve in order to compensate for misalignment (column 6 lines 1-7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the device of Kretschmer modified by

Young with a locking sleeve wherein the axis of the bore is laterally offset from the axis of the locking sleeve in view of Sherman in order to compensate for misalignment.

8. Claims 2-4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kretschmer (European Patent 0,517,939 A1) in view of Young (U.S. Publication 2005/0038433) further in view of Sherman (U.S. Patent 5,141,357) further in view of Haag (U.S. Patent 5,976,141).

Regarding claims 1-4 and 6-8, the combination of Kretschmer, Young, and Sherman disclose the invention as claimed except for the intermediate piece having an upper part comprising a circular boss (claim 6). Haag discloses a device with a sleeve wherein the sleeve comprises an upper part having a circular boss in order to allow the sleeve to lock into a hole (column 2 lines 26-29). It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the device of Kretschmer modified by Young and further modified by Sherman with an intermediate piece having an upper part comprising a circular boss in view of Haag in order to allow the sleeve to lock into a hole.

### ***Response to Arguments***

9. Applicant's arguments filed 05/17/2007 have been fully considered but they are not persuasive. The examiner agrees that the combination of Kretschmer and Young do not disclose a device wherein the axis of the threading is not laterally and/or angularly offset relative to the axis of the bore and/or the axis of the pin. However, the claim states, the axis of the threading of this sleeve is angularly and/or laterally offset in relation to the axis of the pin when the pin is in place on the bone part and/or the axis of

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the bore (19) of the locking sleeve (13) is angularly and/or laterally offset in relation to the axis of the threading (6). The claim requires a device wherein the axis of the threading of the sleeve is angularly and or laterally offset in relation to the axis of the pin when the pin is in place on the bone part or the axis of the bore of the locking sleeve is angularly and/or offset in relation to the axis of the threading. The combination of Kretschmer and Young disclose a device wherein the axis of the bore of the locking sleeve is angularly and/or laterally offset in relation to the axis of the threading meeting all the limitations of the claims as presented.

***Allowable Subject Matter***

10. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Woodall whose telephone number is 571-272-5204. The examiner can normally be reached on Monday to Friday 8:00 to 5:30 EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NWWW



EDUARDO C. ROBERT  
SUPERVISORY PATENT EXAMINER